

In Re: Case No.: 21-10121 (SLM)
AMERICAN LIMOUSINE LLC, Chapter:
7
Judge: Meisel

NOTICE OF PROPOSED COMPROMISE or SETTLEMENT OF CONTROVERSY

Lancer Insurance Company ("Lancer", a creditor, in this case proposes a compromise, or to settle a claim and/or action as described below. If you object to the settlement or compromise, you must file a written objection with the Clerk of the United States Bankruptcy Court, and serve it on the person named below not later 7 days before the hearing date.

Address of the Clerk: Martin Luther King, Jr. Federal Building
50 Walnut Street, Third Floor
Newark, New Jersey 07102

If an objection is filed, a hearing will be held before the Honorable Stacey L. Meisel on June 22, 2021 at 10:00 a.m. at the United States Bankruptcy Court, courtroom no. 3A, (hearing to be scheduled for at least 28 days from the date of the filing of the notice). If no objection is filed the clerk will enter a *Certification of No Objection* and the settlement may be completed as proposed.

Nature of action: Prior to the Petition Date, Lancer issued a commercial automobile insurance policy to or on behalf of the Debtor providing insurance coverage for certain vehicles utilized by the Debtor in its operations (Policy No. BA159499#16) (the "Pre-Petition Policy"). In December 2020, the Debtor and Lancer entered into a Deductible Security Agreement, pursuant to which, among other things, the Debtor agreed to maintain a "Security Fund" in the amount of not less than \$973,107 (in cash or a letter(s) of credit) for the purposes of, among other things, reimbursing Lancer for payment of any deductible amounts made on account of claims made under the Pre-Petition Policy. The Deductible Security Agreement further provides that the amount of the Security Fund is subject to adjustment so as to be in an amount at least equal to Lancer's best estimate of its losses and expenses on open claims under the Pre-Petition Policy. As of the Petition Date, pursuant to the Pre-Petition Policy and/or the Deductible Security Agreement, the Debtor owed Lancer: (a) not less than \$119,732.78 for reimbursement of deductible amounts on paid claims and (b) not less than \$337,296.31 for additional collateral required to bring the Security Fund to its minimum contractual level. On February 24, 2021, Lancer filed a proof of claim in

1. **Pertinent terms of settlement:** Subsequent to the Petition Date, the Debtor and Lancer engaged in extensive arms-length discussions and negotiations with the assistance of their respective attorneys as to mutually agreeable terms of continued insurance coverage by Lancer and the satisfaction of the Lancer Claim over time. As a result of those discussions, the Debtor executed a certain Addendum No. 2 to Deductible Security Agreement (the "Policy Addendum"). The material provisions of the Policy Addendum are as follows.
 - (a) The Pre-Petition Policy shall be cancelled effective as of May 1, 2021;
 - (b) Lancer shall issue a new commercial automobile insurance policy (Policy No. BA159499#17) (the "New Policy"), effective May 1, 2021 to September 16, 2021;
 - (c) The "Claim Deductible Amounts" under the New Policy payable by the Debtor will be \$25,000 (down from \$200,000 under the Pre-Petition Policy);
 - (d) As a result of the reduction of the Claim Deductible Amounts under the New Policy, there will be an additional premium charge of \$2,900 per unit on an annualized basis. Any existing premium credits, and any premium credits that are generated by the cancellation of the Pre-Petition Policy, will be applied to the New Policy, and the premium balance owed will be billed monthly until September 2021. Any monthly premium balance owed by the Debtor shall be in addition to the monthly payments to be made by the Debtor as set forth in subsections (g) and (h), below;
 - (e) In the event that the unit count under the New Policy increases above 80 units before September 2021, Lancer reserves the right to cancel/rewrite the New Policy if deemed necessary by Lancer in its sole and exclusive discretion;
 - (f) The September 16, 2021 renewal of the New Policy will be underwritten in the normal course of business;
 - (g) In connection with: (i) the amount currently owed by the Debtor to Lancer for prior paid claims which as of April 30, 2021 totaled \$120,365.78 and (ii) the additional security amount to \$359,317.46 required pursuant to the Deductible Security Agreement required the Debtor to maintain a "Security Fund" of not less than \$973,107, Lancer will draw down \$50,000 from the existing Security Fund and apply that money to the current outstanding balance for prior paid claims. Additionally, in order to be current with the prior paid claims and to bring the amount owed by the Debtor into compliance with the minimum Security Fund required under the

- (1) Beginning on May 15, 2021, the Debtor will pay to Lancer not less than \$15,000/month on the 15th of every month in perpetuity toward the remaining balance owed for paid claims and additional security due, until paid claims are current and the Security Fund reaches the required amount as set forth in the Deductible Billing Statements; and
- (2) The \$15,000 monthly payment shall be in addition to the “new paid”, or what becomes currently due in each month going forward as set forth in subparagraph (h), below;

(h) The Debtor, on a going forward basis, shall additionally pay to Lancer new and/or current paid claims that come due under the Deductible Security Agreement as such amounts become due, on or before the 15th of every month, subject to a monthly cap of \$25,000. If the amount owed for new or currently paid claims in any one month exceeds the \$25,000 cap, the balance that exceeds that cap shall roll over to the following month until it is fully paid; and

In the event of a failure and/or default by the Debtor to make any of the required payment obligations set forth in subparagraphs (d), (g) and (h), above, Lancer shall have the right, in its sole and exclusive discretion, to exercise the remedies available to Lancer set forth in the New Policy and in Section 5 of the Deductible Security Agreement entitled “Remedies”, without the need to seek any relief from the automatic stay from the Bankruptcy Court in the Debtor’s chapter 11 case.

Objections must be served on, and requests for additional information directed to:

Name: /s/ Barry J. Roy, Esq.

Address: Rabinowitz Lubetkin & Tully LLC, 203 Eisenhower Parkway, Suite 100, Livingston,
New Jersey 07039

Telephone No.: (973) 597-9100